

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

VS.

VINCENTE MENDOZA,

Defendant.

8:05CR179

ORDER

This matter is before the court on the motions for an extension of time by defendant Vincente Mendoza (Mendoza) (Filing No. 33). Mendoza seeks an extension of time in which to file pretrial motions pursuant to paragraph 3 of the progression order and to continue the trial date. Defense counsel represents to the court that counsel for the government has no objection to the extension. Mendoza has submitted an affidavit in accordance with paragraph 9 of the progression order whereby Mendoza consents to the motion and acknowledges he understands the additional time may be excludable time for the purposes of the Speedy Trial Act (Filing No. 35). Upon consideration, the motion will be granted.

IT IS ORDERED:

1. Defendant Mendoza's motion for an extension of time (Filing No. 33) is granted. Defendant Mendoza is given until **on or before August 19, 2005**, in which to file pretrial motions pursuant to the progression order (Filing No. 26). The ends of justice have been served by granting such motion and outweigh the interests of the public and the defendant in a speedy trial. The additional **time** arising as a result of the granting of the motion, i.e., the time between **July 21, 2005 and August 19, 2005**, shall be deemed **excludable** time in any computation of time under the requirement of the Speedy Trial Act for the reason defendant's counsel requires additional time to adequately prepare the case, taking into consideration due diligence of counsel, and the novelty and complexity of this case. The failure to grant additional time might result in a miscarriage of justice.

18 U.S.C. § 3161(h)(8)(A) & (B).

2. The tentative setting of an evidentiary hearing for 1:30 p.m. on July 28, 2005, and the trial setting is **canceled** and will be re-scheduled in the event any pretrial motions are filed in accordance with this order.

DATED this 21st day of July, 2005.

BY THE COURT:

s/Thomas D. Thalken
United States Magistrate Judge